

Prison Rape Elimination Act

702.1 PURPOSE AND SCOPE

This policy provides guidance for compliance with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent, detect, and respond to sexual abuse and sexual harassment (28 CFR 115.11; 15 CCR 1029).

702.1.1 DEFINITIONS

Definitions related to this policy include:

Intersex - A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sex development (28 CFR 115.5).

Sexual abuse - Any of the following acts, if the inmate does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse (28 CFR 115.6; 15 CCR 1006):

- (a) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- (b) Contact between the mouth and the penis, vulva, or anus
- (c) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument
- (d) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation

Sexual abuse also includes abuse by a staff member, contractor, or volunteer as follows, with or without consent of the inmate, detainee, or resident:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva, or anus
- Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire
- Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties, or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties, or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire
- Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described above

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- Any display by a staff member, contractor, or volunteer of his/her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident
- Voyeurism by a staff member, contractor, or volunteer

Sexual harassment - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident that are directed toward another; repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28 CFR 115.6; 15 CCR 1006).

Transgender - a person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth (28 CFR 115.5).

702.2 POLICY

This office has zero tolerance with regard to sexual abuse and sexual harassment in this facility. This office will take appropriate affirmative measures to protect all inmates from sexual abuse and harassment, and promptly and thoroughly investigate all allegations of sexual abuse and sexual harassment.

702.3 GUIDELINES

The Shasta County Sheriff's Office is committed to providing a safe, humane, secure environment, free from sexual misconduct. This will be accomplished by maintaining a program to address education/prevention, detection, response, investigation, and tracking of sexual misconduct and to address successful community re-entry of the victim. The Shasta County Jail will maintain a **zero tolerance** for any sexual misconduct. All sexual misconduct is strictly prohibited. Any allegation of abuse or sexual misconduct will be investigated and may be referred to the District Attorney for filing of criminal charges.

This policy applies to all employees, contractors, volunteers, interns, and visitors of the Shasta County Jail. Further, it applies to inmates under the supervision of the Shasta County Sheriff's Office, in the custody of Shasta County Jail or out of custody on a Shasta County Sheriff's alternative custody program.

Sexual Misconduct is defined as any behavior or act of a sexual nature by a departmental employee, contractor, volunteer, visitor, or inmate, which is directed toward a person under the care, custody, or supervision of the Shasta County Sheriff's Office. Any sexual behavior between them constitutes sexual misconduct and may subject the employee, contractor, volunteer, visitor, or inmate to disciplinary action and/or prosecution under the law.

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The legal concept of “consent” does not exist between departmental employees and offenders or between offenders.

Retaliatory measures against employees or inmates who report incidents of sexual abuse will not be tolerated and may result in disciplinary action and/or criminal prosecution. Retaliatory measures include, but are not limited to, coercion, threats of punishment, or any other activities intended to discourage or prevent an employee or inmate from reporting the sexual abuse.

702.4 PREA COORDINATOR

The Captain shall appoint an upper-level manager with sufficient time and authority to develop, implement, and oversee office efforts to comply with PREA standards. The PREA coordinator shall review facility policies and practices and make appropriate compliance recommendations to the Captain (28 CFR 115.11).

The PREA coordinator’s responsibilities shall include:

- (a) Developing a written plan to coordinate response among staff first responders, medical and mental health practitioners, investigators, and facility management to an incident of sexual abuse. The plan must also outline the office's approach to identifying imminent sexual abuse toward inmates and preventing and detecting such incidents (28 CFR 115.11; 28 CFR 115.65; 28 CFR 115.62).
- (b) Ensuring that within 30 days of intake, inmates are provided with comprehensive education, either in person or through video, regarding their rights to be free from sexual abuse and sexual harassment and to be free from retaliation for reporting such incidents, and regarding the office’s policies and procedures for responding to such incidents (28 CFR 115.33).
- (c) Developing a staffing plan to provide adequate levels of staffing and video monitoring, where applicable, in order to protect detainees from sexual abuse. This includes documenting deviations and the reasons for deviations from the staffing plan, as well as reviewing the staffing plan a minimum of once per year. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration (28 CFR 115.13).
 - 1. Generally accepted detention and correctional practices.
 - 2. Any judicial findings of inadequacy.
 - 3. Any findings of inadequacy from federal investigative agencies.
 - 4. Any findings of inadequacy from internal or external oversight bodies.
 - 5. All components of the facility's physical plant, including blind spots or areas where staff or inmates may be isolated.
 - 6. The composition of the inmate population.
 - 7. The number and placement of supervisory staff.
 - 8. Institution programs occurring on a particular shift.

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9. Any applicable state or local laws, regulations, or standards.
 10. The prevalence of substantiated and unsubstantiated incidents of sexual abuse.
 11. Any other relevant factors.
- (d) Ensuring that, when designing, acquiring, expanding, or modifying facilities, or when installing or updating a video-monitoring system, electronic surveillance system, or other monitoring technology, consideration is given to the office's ability to protect inmates from sexual abuse (28 CFR 115.18).
 - (e) Ensuring that any contract for the confinement of office detainees or inmates includes the requirement to adopt and comply with the PREA standards including obtaining incident-based and aggregated data, as required in 28 CFR 115.187. Any new contract or contract renewal shall provide for office contract monitoring to ensure that the contractor is complying with the PREA standards (28 CFR 115.12).
 - (f) Making reasonable efforts to enter into agreements with community service providers to provide inmates with confidential, emotional support services related to sexual abuse. The facility shall provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, state, or national victim advocacy or rape crisis organizations. Persons detained solely for civil immigration purposes shall be given contact information for immigrant services agencies. The facility shall enable reasonable communication between inmates and these organizations and agencies in as confidential a manner as possible. The facility shall inform inmates, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws (28 CFR 115.53).
 - (g) Ensuring the protocol describing the responsibilities of the Office and of another investigating agency, if another law enforcement agency will be responsible for conducting any sexual abuse or sexual harassment investigations, is published on the facility website or by other means, if no website exists (28 CFR 115.22).
 - (h) Implementing a process by which inmates may report sexual abuse and sexual harassment to a public/private entity or an office that is not part of the Office, and that the outside entity or office is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to the Captain, allowing the inmate anonymity (28 CFR 115.51; 15 CCR 1029).
 - (i) Establishing a process to ensure accurate, uniform data is collected for every allegation of sexual abuse at facilities under the direct control of this office, using a standardized instrument and set of definitions. Upon request, the Office shall provide all such data from the previous calendar year to the U.S. Department of Justice (DOJ) no later than June 30 (28 CFR 115.87; 34 USC § 30303; 15 CCR 1041).
 - (a) The data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the U.S. DOJ.

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- (b) The data shall be aggregated at least annually.
- (j) Establishing a process to monitor the conduct and treatment of detainees or staff who have reported sexual abuse, and the conduct and treatment of detainees who were reported to have suffered sexual abuse.
- (k) Ensuring that the following are published on the office's website or by other means, if no website exists:
 1. Office policy governing investigations of allegations of sexual abuse and sexual harassment or the referral of such investigations of sexual abuse or sexual harassment (unless the allegation does not involve potentially criminal behavior) (28 CFR 115.22)
 2. Information on how to report sexual abuse and sexual harassment on behalf of an inmate (28 CFR 115.54)
- (l) Ensuring audits are conducted pursuant to 28 CFR 115.401 through 28 CFR 115.405 (28 CFR 115.93).
- (m) Implementing a protocol requiring mid-level or higher-level supervisors to conduct and document unannounced inspections to identify and deter sexual abuse and sexual harassment. The protocol shall prohibit announcing when such inspections are to occur, unless it is necessary for operational considerations (28 CFR 115.13).
- (n) Ensuring agreements with outside investigating agencies include PREA requirements, including a requirement to keep the Shasta County Sheriff's Office informed of the progress of the investigation (28 CFR 115.71).
- (o) Ensuring that information for uninvolved inmates, family, community members, and other interested third parties to report sexual abuse or sexual harassment is publicly posted at the facility (15 CCR 1029).
- (p) Ensuring the Office conducts follow-up criminal background records checks at least once every five years on members or contractors who may have contact with inmates or has in place a system for otherwise capturing such information (28 CFR 115.17).

702.4.1 GENERAL INFORMATION

A. Inmates may report allegations of abuse or misconduct by using any of the following methods (the inmate may remain anonymous if

they choose):

- Completion of a Custody Division inmate grievance / administrative process.
- Write a letter to the Lieutenant, Jail Commander, Sheriff or any other law enforcement agency.
- Report the allegation to any employee of the Shasta County Jail, medical staff, or mental health worker.

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B. Correctional Officers shall ask a PREA questionnaire to inmates prior to be housed upstairs. If the inmate answers yes to being sexually victimized within the last 72 hours, staff then shall immediately notify the Watch

Commander and medical. Staff shall gather as much information as possible and notify the responsible jurisdiction of where the crime took place. If the inmate does not wish to pursue criminal charges or cooperate, staff shall generate an informational crime report and forward to the Watch Commander for disposition.

C. All Shasta County Jail employees, volunteers, contractors, interns and visitors are required to report any and all incidents of sexual misconduct or alleged sexual misconduct immediately to their supervisor or available

manager. Any employee, upon receiving a written, or oral complaint, allegation, or any notice whatsoever of conduct prohibited by this policy, or of retaliation for reporting such conduct will comply with the following protocol:

- (a) Notice of Alleged Sexual Misconduct: Any sexual misconduct or alleged sexual misconduct will be immediately reported, verbally and by written notice to your immediate supervisor. If your immediate supervisor is not available, the alleged act will immediately be reported to the next available supervisor or manager utilizing the departmental Chain of Command. An investigation will begin as soon as the complaint is received.
- (b) Mandated Reporter: Pursuant to Penal Code Section 11165.7(a) (34), mandated reporters include any employee of a county Sheriff's Department. A mandated reporter, who in his or her professional capacity, or within the scope of his or her employment, has knowledge of, or reasonably suspects has been the victim of abuse must report the suspected incident. In addition to notifying the direct supervisor, the reporter will prepare a written report immediately after receiving the information concerning the incident. The report shall be forwarded to the supervisor. (No supervisor or administrator may impede or inhibit an individual's reporting duties or subject the mandated reporter to any sanction for making the report, PC 11666(i) (i)).
- (c) Failure to Report: Failure to make a report of an allegation or complaint of sexual misconduct may be subject to disciplinary action.

At the time an allegation is made an investigation shall be commenced. The person taking the complaint will receive the information from the complainant. This information should include the date, time, and where the incident took place as well as the names of witnesses, the victim(s), and suspect(s). The information/case will be turned over to investigations.

D. The victims of abuse or sexual misconduct will be provided timely and appropriate medical and mental health care. For emotional

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support, access to victim advocates from rape crisis centers will be provided, when available.

E. The facility Lieutenant or designee will complete and submit a "Survey of Sexual Violence – Incident Form" for each occurrence

sustained or not. In addition, the facility Lieutenant or designee will

complete and submit a "Survey of Sexual Violence – Summary Form" for the year's end.

702.4.2 EDUCATION/ TRAINING AND PREVENTION

A. Information For Staff/Employees:

1. Training will be arranged through the Shasta County Sheriff's Training Coordinator and the Custody Division Training Supervisor.

2. In an effort to keep up on PREA updates, the Shasta County Sheriff's Office will provide annual four (4) hour training in Preventing

Sexual Misconduct (PREA training) to all employees of the Custody Division and Alternative Custody Programs.

3. This policy will be provided to volunteers, interns, and independent contractors of the Custody Division or site managers for Alternative Custody Programs. It does not supersede any policy established by the primary

employer of a volunteer or contractor.